

Introduced by Senator Emmerson

February 11, 2013

An act to amend Sections 1170, 3000.08, and 3451 of, and to add Section 1170.95 to, the Penal Code, relating to mentally disordered defendants.

LEGISLATIVE COUNSEL'S DIGEST

SB 226, as introduced, Emmerson. Defendants: severe mental disorder: incarceration in state prison.

Existing law requires that certain specified felonies be punished by imprisonment in a county jail for the term specified in the underlying offense or for 16 months, or 2 or 3 years. Existing law requires that a prisoner who has a severe mental disorder, and whose severe mental disorder was one of the causes or was an aggravating factor in the prisoner's criminal activity, receive treatment by the State Department of State Hospitals as a condition of parole.

This bill would require a court, upon conviction of a defendant for certain specified offenses involving force or serious bodily injury, or involving the threat of force or violence likely to produce substantial physical harm, that is punishable as a felony by imprisonment in a county jail, if the court has reason to believe the defendant has a severe mental disorder, to suspend the imposition of the sentence and transport the defendant to the Department of Corrections and Rehabilitation for evaluation to determine whether the defendant has a severe mental disorder and whether the severe mental disorder was an aggravating factor in the prisoner's criminal behavior, as provided. If the initial evaluation determines the defendant has a severe mental disorder, as specified, the bill would require the court to impose a sentence for the term described in the underlying offense to be served in the state prison,

and would provide that the defendant be subject to parole upon completion of the sentence. If the initial evaluation determines the defendant does not have a severe mental disorder, as provided, the bill would require the defendant to be returned to court for sentencing to imprisonment in a county jail. The bill would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1170 of the Penal Code, as amended by
2 Section 2 of Chapter 828 of the Statutes of 2012, is amended to
3 read:

4 1170. (a) (1) The Legislature finds and declares that the
5 purpose of imprisonment for crime is punishment. This purpose
6 is best served by terms proportionate to the seriousness of the
7 offense with provision for uniformity in the sentences of offenders
8 committing the same offense under similar circumstances. The
9 Legislature further finds and declares that the elimination of
10 disparity and the provision of uniformity of sentences can best be
11 achieved by determinate sentences fixed by statute in proportion
12 to the seriousness of the offense as determined by the Legislature
13 to be imposed by the court with specified discretion.

14 (2) Notwithstanding paragraph (1), the Legislature further finds
15 and declares that programs should be available for inmates,
16 including, but not limited to, educational programs, that are
17 designed to prepare nonviolent felony offenders for successful
18 reentry into the community. The Legislature encourages the
19 development of policies and programs designed to educate and
20 rehabilitate nonviolent felony offenders. In implementing this
21 section, the Department of Corrections and Rehabilitation is
22 encouraged to give priority enrollment in programs to promote
23 successful return to the community to an inmate with a short
24 remaining term of commitment and a release date that would allow
25 him or her adequate time to complete the program.

26 (3) In any case in which the punishment prescribed by statute
27 for a person convicted of a public offense is a term of imprisonment
28 in the state prison of any specification of three time periods, the
29 court shall sentence the defendant to one of the terms of
30 imprisonment specified unless the convicted person is given any

1 other disposition provided by law, including a fine, jail, probation,
2 or the suspension of imposition or execution of sentence or is
3 sentenced pursuant to subdivision (b) of Section 1168 because he
4 or she had committed his or her crime prior to July 1, 1977. In
5 sentencing the convicted person, the court shall apply the
6 sentencing rules of the Judicial Council. The court, unless it
7 determines that there are circumstances in mitigation of the
8 punishment prescribed, shall also impose any other term that it is
9 required by law to impose as an additional term. Nothing in this
10 article shall affect any provision of law that imposes the death
11 penalty, that authorizes or restricts the granting of probation or
12 suspending the execution or imposition of sentence, or expressly
13 provides for imprisonment in the state prison for life, except as
14 provided in paragraph (2) of subdivision (d). In any case in which
15 the amount of preimprisonment credit under Section 2900.5 or any
16 other provision of law is equal to or exceeds any sentence imposed
17 pursuant to this chapter, the entire sentence shall be deemed to
18 have been served and the defendant shall not be actually delivered
19 to the custody of the secretary. The court shall advise the defendant
20 that he or she shall serve a period of parole and order the defendant
21 to report to the parole office closest to the defendant's last legal
22 residence, unless the in-custody credits equal the total sentence,
23 including both confinement time and the period of parole. The
24 sentence shall be deemed a separate prior prison term under Section
25 667.5, and a copy of the judgment and other necessary
26 documentation shall be forwarded to the secretary.

27 (b) When a judgment of imprisonment is to be imposed and the
28 statute specifies three possible terms, the court shall order
29 imposition of the middle term, unless there are circumstances in
30 aggravation or mitigation of the crime. At least four days prior to
31 the time set for imposition of judgment, either party or the victim,
32 or the family of the victim if the victim is deceased, may submit
33 a statement in aggravation or mitigation to dispute facts in the
34 record or the probation officer's report, or to present additional
35 facts. In determining whether there are circumstances that justify
36 imposition of the upper or lower term, the court may consider the
37 record in the case, the probation officer's report, other reports,
38 including reports received pursuant to Section 1203.03, and
39 statements in aggravation or mitigation submitted by the
40 prosecution, the defendant, or the victim, or the family of the victim

1 if the victim is deceased, and any further evidence introduced at
2 the sentencing hearing. The court shall set forth on the record the
3 facts and reasons for imposing the upper or lower term. The court
4 may not impose an upper term by using the fact of any
5 enhancement upon which sentence is imposed under any provision
6 of law. A term of imprisonment shall not be specified if imposition
7 of sentence is suspended.

8 (c) The court shall state the reasons for its sentence choice on
9 the record at the time of sentencing. The court shall also inform
10 the defendant that as part of the sentence after expiration of the
11 term he or she may be on parole for a period as provided in Section
12 3000.

13 (d) (1) When a defendant subject to this section or subdivision
14 (b) of Section 1168 has been sentenced to be imprisoned in the
15 state prison and has been committed to the custody of the secretary,
16 the court may, within 120 days of the date of commitment on its
17 own motion, or at any time upon the recommendation of the
18 secretary or the Board of Parole Hearings, recall the sentence and
19 commitment previously ordered and resentence the defendant in
20 the same manner as if he or she had not previously been sentenced,
21 provided the new sentence, if any, is no greater than the initial
22 sentence. The court resentencing under this subdivision shall apply
23 the sentencing rules of the Judicial Council so as to eliminate
24 disparity of sentences and to promote uniformity of sentencing.
25 Credit shall be given for time served.

26 (2) (A) (i) When a defendant who was under 18 years of age
27 at the time of the commission of the offense for which the
28 defendant was sentenced to imprisonment for life without the
29 possibility of parole has served at least 15 years of that sentence,
30 the defendant may submit to the sentencing court a petition for
31 recall and resentencing.

32 (ii) Notwithstanding clause (i), this paragraph shall not apply
33 to defendants sentenced to life without parole for an offense where
34 the defendant tortured, as described in Section 206, his or her
35 victim or the victim was a public safety official, including any law
36 enforcement personnel mentioned in Chapter 4.5 (commencing
37 with Section 830) of Title 3, or any firefighter as described in
38 Section 245.1, as well as any other officer in any segment of law
39 enforcement who is employed by the federal government, the state,
40 or any of its political subdivisions.

1 (B) The defendant shall file the original petition with the
2 sentencing court. A copy of the petition shall be served on the
3 agency that prosecuted the case. The petition shall include the
4 defendant's statement that he or she was under 18 years of age at
5 the time of the crime and was sentenced to life in prison without
6 the possibility of parole, the defendant's statement describing his
7 or her remorse and work towards rehabilitation, and the defendant's
8 statement that one of the following is true:

9 (i) The defendant was convicted pursuant to felony murder or
10 aiding and abetting murder provisions of law.

11 (ii) The defendant does not have juvenile felony adjudications
12 for assault or other felony crimes with a significant potential for
13 personal harm to victims prior to the offense for which the sentence
14 is being considered for recall.

15 (iii) The defendant committed the offense with at least one adult
16 codefendant.

17 (iv) The defendant has performed acts that tend to indicate
18 rehabilitation or the potential for rehabilitation, including, but not
19 limited to, availing himself or herself of rehabilitative, educational,
20 or vocational programs, if those programs have been available at
21 his or her classification level and facility, using self-study for
22 self-improvement, or showing evidence of remorse.

23 (C) If any of the information required in subparagraph (B) is
24 missing from the petition, or if proof of service on the prosecuting
25 agency is not provided, the court shall return the petition to the
26 defendant and advise the defendant that the matter cannot be
27 considered without the missing information.

28 (D) A reply to the petition, if any, shall be filed with the court
29 within 60 days of the date on which the prosecuting agency was
30 served with the petition, unless a continuance is granted for good
31 cause.

32 (E) If the court finds by a preponderance of the evidence that
33 the statements in the petition are true, the court shall hold a hearing
34 to consider whether to recall the sentence and commitment
35 previously ordered and to resentence the defendant in the same
36 manner as if the defendant had not previously been sentenced,
37 provided that the new sentence, if any, is not greater than the initial
38 sentence. Victims, or victim family members if the victim is
39 deceased, shall retain the rights to participate in the hearing.

1 (F) The factors that the court may consider when determining
2 whether to recall and resentence include, but are not limited to,
3 the following:

4 (i) The defendant was convicted pursuant to felony murder or
5 aiding and abetting murder provisions of law.

6 (ii) The defendant does not have juvenile felony adjudications
7 for assault or other felony crimes with a significant potential for
8 personal harm to victims prior to the offense for which the sentence
9 is being considered for recall.

10 (iii) The defendant committed the offense with at least one adult
11 codefendant.

12 (iv) Prior to the offense for which the sentence is being
13 considered for recall, the defendant had insufficient adult support
14 or supervision and had suffered from psychological or physical
15 trauma, or significant stress.

16 (v) The defendant suffers from cognitive limitations due to
17 mental illness, developmental disabilities, or other factors that did
18 not constitute a defense, but influenced the defendant's
19 involvement in the offense.

20 (vi) The defendant has performed acts that tend to indicate
21 rehabilitation or the potential for rehabilitation, including, but not
22 limited to, availing himself or herself of rehabilitative, educational,
23 or vocational programs, if those programs have been available at
24 his or her classification level and facility, using self-study for
25 self-improvement, or showing evidence of remorse.

26 (vii) The defendant has maintained family ties or connections
27 with others through letter writing, calls, or visits, or has eliminated
28 contact with individuals outside of prison who are currently
29 involved with crime.

30 (viii) The defendant has had no disciplinary actions for violent
31 activities in the last five years in which the defendant was
32 determined to be the aggressor.

33 (G) The court shall have the discretion to recall the sentence
34 and commitment previously ordered and to resentence the
35 defendant in the same manner as if the defendant had not
36 previously been sentenced, provided that the new sentence, if any,
37 is not greater than the initial sentence. The discretion of the court
38 shall be exercised in consideration of the criteria in subparagraph
39 (B). Victims, or victim family members if the victim is deceased,

1 shall be notified of the resentencing hearing and shall retain their
2 rights to participate in the hearing.

3 (H) If the sentence is not recalled, the defendant may submit
4 another petition for recall and resentencing to the sentencing court
5 when the defendant has been committed to the custody of the
6 department for at least 20 years. If recall and resentencing is not
7 granted under that petition, the defendant may file another petition
8 after having served 24 years. The final petition may be submitted,
9 and the response to that petition shall be determined, during the
10 25th year of the defendant's sentence.

11 (I) In addition to the criteria in subparagraph (F), the court may
12 consider any other criteria that the court deems relevant to its
13 decision, so long as the court identifies them on the record,
14 provides a statement of reasons for adopting them, and states why
15 the defendant does or does not satisfy the criteria.

16 (J) This subdivision shall have retroactive application.

17 (e) (1) Notwithstanding any other law and consistent with
18 paragraph (1) of subdivision (a), if the secretary or the Board of
19 Parole Hearings or both determine that a prisoner satisfies the
20 criteria set forth in paragraph (2), the secretary or the board may
21 recommend to the court that the prisoner's sentence be recalled.

22 (2) The court shall have the discretion to resentence or recall if
23 the court finds that the facts described in subparagraphs (A) and
24 (B) or subparagraphs (B) and (C) exist:

25 (A) The prisoner is terminally ill with an incurable condition
26 caused by an illness or disease that would produce death within
27 six months, as determined by a physician employed by the
28 department.

29 (B) The conditions under which the prisoner would be released
30 or receive treatment do not pose a threat to public safety.

31 (C) The prisoner is permanently medically incapacitated with
32 a medical condition that renders him or her permanently unable
33 to perform activities of basic daily living, and results in the prisoner
34 requiring 24-hour total care, including, but not limited to, coma,
35 persistent vegetative state, brain death, ventilator-dependency, loss
36 of control of muscular or neurological function, and that
37 incapacitation did not exist at the time of the original sentencing.

38 The Board of Parole Hearings shall make findings pursuant to
39 this subdivision before making a recommendation for resentence

1 or recall to the court. This subdivision does not apply to a prisoner
2 sentenced to death or a term of life without the possibility of parole.

3 (3) Within 10 days of receipt of a positive recommendation by
4 the secretary or the board, the court shall hold a hearing to consider
5 whether the prisoner's sentence should be recalled.

6 (4) Any physician employed by the department who determines
7 that a prisoner has six months or less to live shall notify the chief
8 medical officer of the prognosis. If the chief medical officer
9 concurs with the prognosis, he or she shall notify the warden.
10 Within 48 hours of receiving notification, the warden or the
11 warden's representative shall notify the prisoner of the recall and
12 resentencing procedures, and shall arrange for the prisoner to
13 designate a family member or other outside agent to be notified
14 as to the prisoner's medical condition and prognosis, and as to the
15 recall and resentencing procedures. If the inmate is deemed
16 mentally unfit, the warden or the warden's representative shall
17 contact the inmate's emergency contact and provide the information
18 described in paragraph (2).

19 (5) The warden or the warden's representative shall provide the
20 prisoner and his or her family member, agent, or emergency
21 contact, as described in paragraph (4), updated information
22 throughout the recall and resentencing process with regard to the
23 prisoner's medical condition and the status of the prisoner's recall
24 and resentencing proceedings.

25 (6) Notwithstanding any other provisions of this section, the
26 prisoner or his or her family member or designee may
27 independently request consideration for recall and resentencing
28 by contacting the chief medical officer at the prison or the
29 secretary. Upon receipt of the request, the chief medical officer
30 and the warden or the warden's representative shall follow the
31 procedures described in paragraph (4). If the secretary determines
32 that the prisoner satisfies the criteria set forth in paragraph (2), the
33 secretary or board may recommend to the court that the prisoner's
34 sentence be recalled. The secretary shall submit a recommendation
35 for release within 30 days in the case of inmates sentenced to
36 determinate terms and, in the case of inmates sentenced to
37 indeterminate terms, the secretary shall make a recommendation
38 to the Board of Parole Hearings with respect to the inmates who
39 have applied under this section. The board shall consider this
40 information and make an independent judgment pursuant to

1 paragraph (2) and make findings related thereto before rejecting
2 the request or making a recommendation to the court. This action
3 shall be taken at the next lawfully noticed board meeting.

4 (7) Any recommendation for recall submitted to the court by
5 the secretary or the Board of Parole Hearings shall include one or
6 more medical evaluations, a postrelease plan, and findings pursuant
7 to paragraph (2).

8 (8) If possible, the matter shall be heard before the same judge
9 of the court who sentenced the prisoner.

10 (9) If the court grants the recall and resentencing application,
11 the prisoner shall be released by the department within 48 hours
12 of receipt of the court's order, unless a longer time period is agreed
13 to by the inmate. At the time of release, the warden or the warden's
14 representative shall ensure that the prisoner has each of the
15 following in his or her possession: a discharge medical summary,
16 full medical records, state identification, parole medications, and
17 all property belonging to the prisoner. After discharge, any
18 additional records shall be sent to the prisoner's forwarding
19 address.

20 (10) The secretary shall issue a directive to medical and
21 correctional staff employed by the department that details the
22 guidelines and procedures for initiating a recall and resentencing
23 procedure. The directive shall clearly state that any prisoner who
24 is given a prognosis of six months or less to live is eligible for
25 recall and resentencing consideration, and that recall and
26 resentencing procedures shall be initiated upon that prognosis.

27 (f) Notwithstanding any other provision of this section, for
28 purposes of paragraph (3) of subdivision (h), any allegation that
29 a defendant is eligible for state prison due to a prior or current
30 conviction, sentence enhancement, or because he or she is required
31 to register as a sex offender shall not be subject to dismissal
32 pursuant to Section 1385.

33 (g) A sentence to state prison for a determinate term for which
34 only one term is specified, is a sentence to state prison under this
35 section.

36 (h) (1) Except as provided in paragraph (3), a felony punishable
37 pursuant to this subdivision where the term is not specified in the
38 underlying offense shall be punishable by a term of imprisonment
39 in a county jail for 16 months, or two or three years.

1 (2) Except as provided in paragraph (3), a felony punishable
2 pursuant to this subdivision shall be punishable by imprisonment
3 in a county jail for the term described in the underlying offense.

4 (3) Notwithstanding paragraphs (1) and (2), where the defendant
5 (A) has a prior or current felony conviction for a serious felony
6 described in subdivision (c) of Section 1192.7 or a prior or current
7 conviction for a violent felony described in subdivision (c) of
8 Section 667.5, (B) has a prior felony conviction in another
9 jurisdiction for an offense that has all the elements of a serious
10 felony described in subdivision (c) of Section 1192.7 or a violent
11 felony described in subdivision (c) of Section 667.5, (C) is required
12 to register as a sex offender pursuant to Chapter 5.5 (commencing
13 with Section 290) of Title 9 of Part 1, ~~or~~ (D) is convicted of a crime
14 and as part of the sentence an enhancement pursuant to Section
15 186.11 is imposed, *or (E) is determined to have a severe mental*
16 *disorder pursuant to Section 1170.95*, an executed sentence for a
17 felony punishable pursuant to this subdivision shall be served in
18 state prison.

19 (4) Nothing in this subdivision shall be construed to prevent
20 other dispositions authorized by law, including pretrial diversion,
21 deferred entry of judgment, or an order granting probation pursuant
22 to Section 1203.1.

23 (5) The court, when imposing a sentence pursuant to paragraph
24 (1) or (2) of this subdivision, may commit the defendant to county
25 jail as follows:

26 (A) For a full term in custody as determined in accordance with
27 the applicable sentencing law.

28 (B) (i) For a term as determined in accordance with the
29 applicable sentencing law, but suspend execution of a concluding
30 portion of the term selected in the court's discretion, during which
31 time the defendant shall be supervised by the county probation
32 officer in accordance with the terms, conditions, and procedures
33 generally applicable to persons placed on probation, for the
34 remaining unserved portion of the sentence imposed by the court.
35 The period of supervision shall be mandatory, and may not be
36 earlier terminated except by court order. Any proceeding to revoke
37 or modify mandatory supervision under this subparagraph shall
38 be conducted pursuant to either subdivisions (a) and (b) of Section
39 1203.2 or Section 1203.3. During the period when the defendant
40 is under such supervision, unless in actual custody related to the

1 sentence imposed by the court, the defendant shall be entitled to
2 only actual time credit against the term of imprisonment imposed
3 by the court. Any time period which is suspended because a person
4 has absconded shall not be credited toward the period of
5 supervision.

6 (ii) The portion of a defendant's sentenced term during which
7 time he or she is supervised by the county probation officer
8 pursuant to this subparagraph shall be known as mandatory
9 supervision.

10 (6) The sentencing changes made by the act that added this
11 subdivision shall be applied prospectively to any person sentenced
12 on or after October 1, 2011.

13 (i) This section shall become operative on January 1, 2014.

14 SEC. 2. Section 1170.95 is added to the Penal Code, to read:

15 1170.95. (a) Upon conviction of a defendant for any felony
16 offense specified in subparagraph (P) or (Q) of paragraph (2) of
17 subdivision (e) of Section 2962 that is punishable by imprisonment
18 in a county jail pursuant to subdivision (h) of Section 1170, if the
19 court has reason to believe that the person has a severe mental
20 disorder, as defined in subdivision (a) of Section 2962, the court
21 shall suspend the imposition of the sentence and transport the
22 defendant to the Department of Corrections and Rehabilitation for
23 evaluation pursuant to subdivision (b).

24 (b) Within 90 days of receiving a defendant for evaluation
25 pursuant to subdivision (a), a psychiatrist from the department
26 shall evaluate the defendant to determine whether he or she has a
27 severe mental disorder, that the disorder is not in remission, or
28 cannot be kept in remission without treatment, that the severe
29 mental disorder was one of the causes or was an aggravating factor
30 in the prisoner's criminal behavior, and that by reason of his or
31 her severe mental disorder the prisoner represents a substantial
32 danger of physical harm to others. The department shall report its
33 findings to the sentencing court in writing.

34 (c) If the initial evaluation determines that the defendant has a
35 severe mental disorder as provided in subdivision (b), the court
36 shall impose a sentence for the term described in the underlying
37 offense to be served in the state prison pursuant to paragraph (3)
38 of subdivision (h) of Section 1170. Upon completion of the
39 sentence the defendant shall be subject to parole as specified in
40 paragraph (2) of subdivision (b) of Section 3000.

1 (d) If the initial evaluation determines that the defendant does
2 not have a severe mental disorder as provided in subdivision (b),
3 the department shall return the defendant to the court for sentencing
4 pursuant to subdivision (h) of Section 1170.

5 SEC. 3. Section 3000.08 of the Penal Code, as amended by
6 Section 35 of Chapter 43 of the Statutes of 2012, is amended to
7 read:

8 3000.08. (a) Persons released from state prison prior to or on
9 or after July 1, 2013, after serving a prison term or, whose sentence
10 has been deemed served pursuant to Section 2900.5, for any of the
11 following crimes shall be subject to parole supervision by the
12 Department of Corrections and Rehabilitation and the jurisdiction
13 of the court in the county where the parolee is released or resides
14 for the purpose of hearing petitions to revoke parole and impose
15 a term of custody:

16 (1) A serious felony as described in subdivision (c) of Section
17 1192.7.

18 (2) A violent felony as described in subdivision (c) of Section
19 667.5.

20 (3) A crime for which the person was sentenced pursuant to
21 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)
22 of subdivision (c) of Section 1170.12.

23 (4) Any crime where the person eligible for release from prison
24 is classified as a High Risk Sex Offender.

25 (5) Any crime where the person is required, as a condition of
26 parole, to undergo treatment by the Department of Mental Health
27 pursuant to Section 2962.

28 (6) *Any crime for which the person was evaluated and found to*
29 *have a severe mental disorder pursuant to Section 1170.95.*

30 (b) Notwithstanding any other provision of law, all other
31 offenders released from prison shall be placed on postrelease
32 supervision pursuant to Title 2.05 (commencing with Section
33 3450).

34 (c) At any time during the period of parole of a person subject
35 to this section, if any parole agent or peace officer has probable
36 cause to believe that the parolee is violating any term or condition
37 of his or her parole, the agent or officer may, without warrant or
38 other process and at any time until the final disposition of the case,
39 arrest the person and bring him or her before the court, or the court

1 may, in its discretion, issue a warrant for that person's arrest
2 pursuant to Section 1203.2.

3 (d) Upon review of the alleged violation and a finding of good
4 cause that the parolee has committed a violation of law or violated
5 his or her conditions of parole, the supervising parole agency may
6 impose additional and appropriate conditions of supervision,
7 including rehabilitation and treatment services and appropriate
8 incentives for compliance, and impose immediate, structured, and
9 intermediate sanctions for parole violations, including flash
10 incarceration in a county jail. Periods of "flash incarceration," as
11 defined in subdivision (e) are encouraged as one method of
12 punishment for violations of a parolee's conditions of parole.
13 Nothing in this section is intended to preclude referrals to a reentry
14 court pursuant to Section 3015.

15 (e) "Flash incarceration" is a period of detention in county jail
16 due to a violation of a parolee's conditions of parole. The length
17 of the detention period can range between one and 10 consecutive
18 days. Shorter, but if necessary more frequent, periods of detention
19 for violations of a parolee's conditions of parole shall appropriately
20 punish a parolee while preventing the disruption in a work or home
21 establishment that typically arises from longer periods of detention.

22 (f) If the supervising parole agency has determined, following
23 application of its assessment processes, that intermediate sanctions
24 up to and including flash incarceration are not appropriate, the
25 supervising parole agency shall, pursuant to Section 1203.2,
26 petition the court in the county in which the parolee is being
27 supervised to revoke parole. At any point during the process
28 initiated pursuant to this section, a parolee may waive, in writing,
29 his or her right to counsel, admit the parole violation, waive a court
30 hearing, and accept the proposed parole modification or revocation.
31 The petition shall include a written report that contains additional
32 information regarding the petition, including the relevant terms
33 and conditions of parole, the circumstances of the alleged
34 underlying violation, the history and background of the parolee,
35 and any recommendations. The Judicial Council shall adopt forms
36 and rules of court to establish uniform statewide procedures to
37 implement this subdivision, including the minimum contents of
38 supervision agency reports. Upon a finding that the person has
39 violated the conditions of parole, the court shall have authority to
40 do any of the following:

1 (1) Return the person to parole supervision with modifications
2 of conditions, if appropriate, including a period of incarceration
3 in county jail.

4 (2) Revoke parole and order the person to confinement in the
5 county jail.

6 (3) Refer the person to a reentry court pursuant to Section 3015
7 or other evidence-based program in the court's discretion.

8 (g) Confinement pursuant to paragraphs (1) and (2) of
9 subdivision (f) shall not exceed a period of 180 days in the county
10 jail.

11 (h) Notwithstanding any other provision of law, in any case
12 where Section 3000.1 or paragraph (4) of subdivision (b) of Section
13 3000 applies to a person who is on parole and the court determines
14 that the person has committed a violation of law or violated his or
15 her conditions of parole, the person on parole shall be remanded
16 to the custody of the Department of Corrections and Rehabilitation
17 and the jurisdiction of the Board of Parole Hearings for the purpose
18 of future parole consideration.

19 (i) Notwithstanding subdivision (a), any of the following persons
20 released from state prison shall be subject to the jurisdiction of,
21 and parole supervision by, the Department of Corrections and
22 Rehabilitation for a period of parole up to three years or the parole
23 term the person was subject to at the time of the commission of
24 the offense, whichever is greater:

25 (1) The person is required to register as a sex offender pursuant
26 to Chapter 5.5 (commencing with Section 290) of Title 9 of Part
27 1, and was subject to a period of parole exceeding three years at
28 the time he or she committed a felony for which they were
29 convicted and subsequently sentenced to state prison.

30 (2) The person was subject to parole for life pursuant to Section
31 3000.1 at the time of the commission of the offense that resulted
32 in a conviction and state prison sentence.

33 (j) Parolees subject to this section who have a pending
34 adjudication for a parole violation on July 1, 2013, shall be subject
35 to the jurisdiction of the Board of Parole Hearings. Parole
36 revocation proceedings conducted by the Board of Parole Hearings
37 prior to July 1, 2013, if reopened on or after July 1, 2013, shall be
38 subject to the jurisdiction of the Board of Parole Hearings.

39 (k) Except as described in subdivision (c), any person who is
40 convicted of a felony that requires community supervision and

1 who still has a period of state parole to serve shall discharge from
2 state parole at the time of release to community supervision.

3 (l) This section shall become operative on July 1, 2013.

4 SEC. 4. Section 3451 of the Penal Code is amended to read:

5 3451. (a) Notwithstanding any other law and except for persons
6 serving a prison term for any crime described in subdivision (b),
7 all persons released from prison on and after October 1, 2011, or,
8 whose sentence has been deemed served pursuant to Section 2900.5
9 after serving a prison term for a felony shall, upon release from
10 prison and for a period not exceeding three years immediately
11 following release, be subject to community supervision provided
12 by a county agency designated by each county's board of
13 supervisors which is consistent with evidence-based practices,
14 including, but not limited to, supervision policies, procedures,
15 programs, and practices demonstrated by scientific research to
16 reduce recidivism among individuals under postrelease supervision.

17 (b) This section shall not apply to any person released from
18 prison after having served a prison term for any of the following:

19 (1) A serious felony described in subdivision (c) of Section
20 1192.7.

21 (2) A violent felony described in subdivision (c) of Section
22 667.5.

23 (3) A crime for which the person was sentenced pursuant to
24 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)
25 of subdivision (c) of Section 1170.12.

26 (4) Any crime where the person eligible for release from prison
27 is classified as a High Risk Sex Offender.

28 (5) Any crime where the person is required, as a condition of
29 parole, to undergo treatment by the State Department of State
30 Hospitals pursuant to Section 2962.

31 (6) *Any crime for which the person was evaluated and found to*
32 *have a severe mental disorder pursuant to Section 1170.95.*

33 (c) (1) Postrelease supervision under this title shall be
34 implemented by a county agency according to a postrelease strategy
35 designated by each county's board of supervisors.

36 (2) The Department of Corrections and Rehabilitation shall
37 inform every prisoner subject to the provisions of this title, upon
38 release from state prison, of the requirements of this title and of
39 his or her responsibility to report to the county agency responsible
40 for serving that inmate. The department shall also inform persons

1 serving a term of parole for a felony offense who are subject to
2 this section of the requirements of this title and of his or her
3 responsibility to report to the county agency responsible for serving
4 that parolee. Thirty days prior to the release of any person subject
5 to postrelease supervision by a county, the department shall notify
6 the county of all information that would otherwise be required for
7 parolees under subdivision (e) of Section 3003.

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